

By: Harris

S.B. No. 1367

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the use of parenting plans and parenting coordinators  
3 in suits affecting the parent-child relationship.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 153.007(d), Family Code, is amended to  
6 read as follows:

7 (d) If the court finds the agreed parenting plan is not in  
8 the child's best interest, the court may request the parties to  
9 submit a revised parenting plan or the court may, after notice and  
10 hearing, render an order for the conservatorship and possession of  
11 the child.

12 SECTION 2. Subchapter J, Chapter 153, Family Code, is amended  
13 by amending Sections 153.601, 153.602, and 153.603 and adding  
14 Section 153.6031 to read as follows:

15 Sec. 153.601. DEFINITIONS. In this subchapter:

16 (1) "Dispute resolution process" means:

17 (A) a process of alternative dispute resolution  
18 conducted in accordance with Section 153.0071 of this chapter and  
19 Chapter 154, Civil Practice and Remedies Code; or

20 (B) any other method of voluntary dispute  
21 resolution.

22 (2) "High-conflict case" means a suit affecting the  
23 parent-child relationship in which the court finds that the parties  
24 have demonstrated an unusual degree [~~demonstrate a pattern~~] of:

1 (A) repetitiously resorting to the adjudicative  
2 process [~~repetitious litigation~~];

3 (B) anger and distrust; and

4 (C) difficulty in communicating about and  
5 cooperating in the care of their children[ ~~or~~

6 [~~(D) other behaviors that in the discretion of~~  
7 ~~the court warrant the appointment of a parenting coordinator~~].

8 (3) "Parenting coordinator" means an impartial third  
9 party appointed by the court on its own motion or on a motion or  
10 agreement of the parties to assist parties in resolving [~~issues~~  
11 ~~relating to~~] parenting [~~and other family~~] issues [~~arising from an~~  
12 ~~order in a suit affecting the parent-child relationship~~].

13 (4) "Parenting plan" means the provisions of a  
14 [~~temporary or final~~] court order that:

15 (A) set [~~sets~~] out [~~the~~] rights and duties of a  
16 parent in relation to the child;

17 (B) provide for parenting time with the child;

18 (C) provide for [~~of parents in a suit affecting~~  
19 ~~the parent-child relationship and includes provisions relating to~~  
20 ~~conservatorship, possession of and access to a child, and~~] child  
21 support;

22 (D) minimize the child's exposure to any harmful  
23 parental conflict;

24 (E) address the child's changing needs; [ ~~and~~

25 (F) set out a dispute resolution process for [~~to~~  
26 ~~minimize~~] future disputes.

27 Sec. 153.602. REQUIREMENT FOR [~~TEMPORARY~~] PARENTING PLAN IN

1 TEMPORARY ORDER. (a) A temporary order that establishes a  
2 conservatorship in a suit affecting the parent-child relationship  
3 must include [~~incorporate~~] a [~~temporary~~] parenting plan. [~~The~~  
4 ~~temporary parenting plan must comply with the requirements for a~~  
5 ~~final parenting plan under Section 153.603.~~]

6 (b) Notwithstanding Section 153.601(4), a parenting plan in  
7 a temporary order is not required to include provisions that:

8 (1) address the child's changing needs; or

9 (2) set out a dispute resolution process for future  
10 disputes [~~Subject to Subsection (c), if the parties cannot agree to~~  
11 ~~a temporary parenting plan, the court may, on the motion of a party~~  
12 ~~or on the court's own motion, order the parties to participate in a~~  
13 ~~dispute resolution process to establish a temporary parenting plan.~~

14 [~~(c) At any time before the court orders the parties to~~  
15 ~~participate in a dispute resolution process under Subsection (b), a~~  
16 ~~party may file a written objection to the referral of the suit to a~~  
17 ~~dispute resolution process on the basis of family violence having~~  
18 ~~been committed by another party against the objecting party or a~~  
19 ~~child who is the subject of the suit. After an objection is filed,~~  
20 ~~the suit may not be referred to a dispute resolution process unless,~~  
21 ~~on the request of a party, a hearing is held and the court finds that~~  
22 ~~a preponderance of the evidence does not support the objection. If~~  
23 ~~the suit is referred to a dispute resolution process, the court~~  
24 ~~shall order appropriate measures be taken to ensure the physical~~  
25 ~~and emotional safety of the party who filed the objection. The~~  
26 ~~order may provide that the parties not be required to have~~  
27 ~~face-to-face contact and that the parties be placed in separate~~

1 ~~rooms during the dispute resolution process.~~

2 ~~[(d) If a dispute resolution process is not available or is~~  
3 ~~not successful, a party may request and the court may order an~~  
4 ~~expedited hearing to establish a temporary parenting plan].~~

5 Sec. 153.603. REQUIREMENT OF ~~[FINAL]~~ PARENTING PLAN IN  
6 FINAL ORDER. (a) Except as provided by Subsection (b), a [A] final  
7 order in a suit affecting the parent-child relationship must  
8 include [incorporate] a [final] parenting plan. [A final parenting  
9 plan must:

10 ~~[(1) establish the rights and duties of each parent~~  
11 ~~with respect to the child, consistent with the criteria in this~~  
12 ~~chapter,~~

13 ~~[(2) minimize the child's exposure to harmful parental~~  
14 ~~conflict,~~

15 ~~[(3) provide for the child's changing needs as the~~  
16 ~~child grows and matures, in a way that minimizes the need for~~  
17 ~~further modifications to the final parenting plan, and~~

18 ~~[(4) provide for a dispute resolution process or other~~  
19 ~~voluntary dispute resolution procedures, before court action,~~  
20 ~~unless precluded or limited by Section 153.0071.]~~

21 (b) The following orders are not required to include a  
22 parenting plan:

23 (1) an order that only modifies child support;

24 (2) an order that only terminates parental rights; or

25 (3) a final order described by Section 155.001(b) [~~In~~

26 providing for a dispute resolution process, the parenting plan must  
27 state that:

1           ~~[(1) preference shall be given to carrying out the~~  
2 ~~parenting plan; and~~

3           ~~[(2) the parties shall use the designated process to~~  
4 ~~resolve disputes].~~

5           (c) ~~[If the parties cannot reach agreement on a final~~  
6 ~~parenting plan, the court, on the motion of a party or on the~~  
7 ~~court's own motion, may order appropriate dispute resolution~~  
8 ~~proceedings under Section 153.0071 to determine a final parenting~~  
9 ~~plan.~~

10          ~~[(d)]~~ If the parties have not reached agreement on a ~~[final]~~  
11 parenting plan on or before the 30th day before the date set for  
12 trial, each party shall file with the court and serve a proposed  
13 ~~[final]~~ parenting plan. Failure by a party to comply with this  
14 subsection may result in the court's adoption of the proposed  
15 ~~[final]~~ parenting plan filed by the opposing party if the court  
16 finds that plan to be in the best interest of the child.

17          (d) ~~[(e)]~~ Each party filing a proposed ~~[final]~~ parenting  
18 plan must sign ~~[attach:~~

19           ~~[(1) a verified statement of income determined in~~  
20 ~~accordance with the child support guidelines and related provisions~~  
21 ~~prescribed by Chapter 154; and~~

22           ~~[(2)]~~ a ~~[verified]~~ statement that the plan is proposed  
23 in good faith and is in the best interest of the child.

24          (e) This section does not preclude the parties from  
25 requesting the appointment of a parenting coordinator to resolve  
26 parental conflicts.

27          Sec. 153.6031. EXCEPTION TO DISPUTE RESOLUTION PROCESS

1 REQUIREMENT. A party to a parenting plan is not required to use the  
2 dispute resolution process provided in a parenting plan:

3 (1) before initiating or participating in:

4 (A) a contested hearing to modify the parenting  
5 plan in an emergency;

6 (B) a suit to modify child support;

7 (C) a suit alleging that the child's present  
8 circumstances will significantly impair the child's physical  
9 health or significantly impair the child's emotional development;

10 or

11 (D) a motion to enforce; or

12 (2) on a showing that enforcement of the requirement  
13 is precluded or limited by Section 153.0071.

14 SECTION 3. Section 153.605, Family Code, is amended to read  
15 as follows:

16 Sec. 153.605. APPOINTMENT OF PARENTING COORDINATOR. (a)  
17 In a suit affecting the parent-child relationship, the court may,  
18 on its own motion or on a motion or agreement of the parties,  
19 appoint a parenting coordinator to assist the parties in resolving  
20 ~~[issues related to]~~ parenting ~~[or other family]~~ issues ~~[in the~~  
21 ~~suit]~~.

22 (b) The court may not appoint a parenting coordinator ~~[if~~  
23 ~~any party objects]~~ unless, after notice and hearing, the court  
24 makes a specific finding ~~[findings]~~ that:

25 (1) the case is ~~[or is likely to become]~~ a  
26 high-conflict case; or

27 (2) there is good cause shown for the appointment of a

1 parenting coordinator and the appointment is in the best interest  
2 of any minor child in the suit.

3 (c) Notwithstanding any other provision of this subchapter,  
4 a party may at any time [~~prior to the appointment of a parenting~~  
5 ~~coordinator~~] file a written objection to the appointment of a  
6 parenting coordinator on the basis of family violence having been  
7 committed by another party against the objecting party or a child  
8 who is the subject of the suit. After an objection is filed, a  
9 parenting coordinator may not be appointed unless, on the request  
10 of a party, a hearing is held and the court finds that a  
11 preponderance of the evidence does not support the objection. If a  
12 parenting coordinator is appointed, the court shall order  
13 appropriate measures be taken to ensure the physical and emotional  
14 safety of the party who filed the objection. The order may provide  
15 that the parties not be required to have face-to-face contact and  
16 that the parties be placed in separate rooms during the parenting  
17 coordination.

18 (d) The work of a parenting coordinator is an alternative  
19 dispute resolution procedure under Chapter 154, Civil Practice and  
20 Remedies Code.

21 SECTION 4. The heading to Section 153.606, Family Code, is  
22 amended to read as follows:

23 Sec. 153.606. DUTIES [~~AUTHORITY~~] OF PARENTING COORDINATOR.

24 SECTION 5. Sections 153.606(a), (c), (e), and (f), Family  
25 Code, are amended to read as follows:

26 (a) The duties [~~authority~~] of a parenting coordinator must  
27 be specified in the order appointing the parenting coordinator.

1 The duties of the parenting coordinator are ~~[and]~~ limited to  
2 matters that will aid the parties in:

- 3 (1) identifying disputed issues;
- 4 (2) reducing misunderstandings;
- 5 (3) clarifying priorities;
- 6 (4) exploring possibilities for problem solving;
- 7 (5) developing methods of collaboration in parenting;
- 8 (6) developing a parenting plan; and
- 9 (7) complying with the court's order regarding  
10 conservatorship or possession of and access to the child.

11 (c) The parenting coordinator may not modify any order,  
12 judgment, or decree ~~[but may urge or suggest that the parties agree~~  
13 ~~to minor temporary departures from a parenting plan if the~~  
14 ~~parenting coordinator is authorized by the court to do so]~~. If a  
15 suit is pending, any ~~[Any]~~ agreement made by the parties with the  
16 assistance of ~~[and]~~ the parenting coordinator must ~~[may]~~ be reduced  
17 to writing, signed by the parties and their attorneys, if any, and  
18 filed with ~~[presented to]~~ the court ~~[for approval]~~.

19 (e) This subchapter ~~[A parenting coordinator may not:~~  
20 ~~[(1) be compelled to produce work product developed~~  
21 ~~during the appointment as parenting coordinator,~~  
22 ~~[(2) be required to disclose the source of any~~  
23 ~~information,~~  
24 ~~[(3) submit a report into evidence, except as required~~  
25 ~~by Section 153.608, or~~  
26 ~~[(4) testify in court.~~

27 ~~[(f) Subsection (e)]~~ does not affect the duty to report child

1 abuse or neglect under Section 261.101.

2 SECTION 6. Section 153.607(b), Family Code, is amended to  
3 read as follows:

4 (b) The court shall [~~may~~] remove the parenting coordinator:

5 (1) on the request and agreement of both parties; or

6 (2) on the motion of a party, if good cause is shown.

7 SECTION 7. Section 153.608, Family Code, is amended to read  
8 as follows:

9 Sec. 153.608. REPORT OF PARENTING COORDINATOR. A parenting  
10 coordinator shall submit a written report to the court and to the  
11 parties as often as ordered by the court. The [~~In the~~] report must  
12 be limited to a statement of [~~the parenting coordinator may give~~  
13 ~~only an opinion regarding~~] whether the parenting coordination [~~is~~  
14 ~~succeeding and~~] should continue.

15 SECTION 8. Sections 153.609(a) and (c), Family Code, are  
16 amended to read as follows:

17 (a) A court may not appoint a parenting coordinator, other  
18 than a domestic relations office or a comparable county agency  
19 appointed under [~~an employee described by~~] Subsection (c) or a  
20 volunteer appointed under Subsection (d), unless, after notice and  
21 hearing, the court finds that the parties have the means to pay the  
22 fees of the parenting coordinator.

23 (c) Public funds may not be used to pay the fees of a  
24 parenting coordinator. Notwithstanding this prohibition, a court  
25 may appoint [~~an employee of the court,~~] the domestic relations  
26 office[~~]~~ or a comparable county agency to act as a parenting  
27 coordinator if personnel are available to serve that function.

1           SECTION 9.   Section 153.604, Family Code, is repealed.

2           SECTION 10.   The changes in law made by this Act apply to a  
3   suit affecting the parent-child relationship that is pending in a  
4   trial court on the effective date of this Act or that is filed on or  
5   after the effective date of this Act.

6           SECTION 11.   This Act takes effect September 1, 2007.